

REMARKS

Claims 1-17 were pending in the application. Claims 13-17 have been cancelled as being directed to a non-elected invention. Claim 1 has been amended and new claim 18 has been added. No new matter has been added.

Objections to the Specification

The Examiner has objected to the specification as containing browser-executable code on page 26, line 1. Applicants believe that the Examiner intended to indicate that the browser-executable code is on page 20, line 1. Applicants have amended the paragraph at page 20, line 1 to remove the browser-executable code.

Rejections Under 35 USC 112, Second Paragraph

The Examiner has objected to claim 1-12 under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the Examiner has rejected claim 1 as lacking antecedent basis. Claim 1 has been amended thereby rendering this rejection moot.

The Examiner has rejected claim 3, alleging that the term “derived” renders the claims indefinite. Applicants respectfully traverse this rejection. Claim 3 is clear and definite as presented. The claim states that the cells are derived from a tissue selected from the group set forth in the claim. There is no ambiguity to this claim. The cells are not “derivatized” as the Examiner asserts, but rather simply derived from one of the enumerated tissues.

The term “derived” is defined by The American Heritage® Dictionary of the English Language: Fourth Edition (2000) as meaning: “[t]o obtain or receive from a source”. This definition confirms the claims meaning as stated on its face, i.e., that the cells are obtained from one of the enumerated tissues.

The Examiner has also indicated that the term “therapeutic moiety” in claim 12 is indefinite. Specifically, the Examiner asks if the therapeutic moiety is for cancer treatment or for the treatment of another disease.

Claim 12 depends from claim 1. Claim 1 is directed to a method of reducing, or inhibiting invasiveness and metastasis of tumor cells. Accordingly, Applicants believe that it is clear that the therapeutic moiety of claim 12 is for reducing or inhibiting invasiveness and metastasis of tumor cells.

Accordingly, based on the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw the foregoing rejections.

Rejection of Claims 1-9 and 11-12 Under 35 USC 112, First Paragraph

The Examiner has rejected claims 1-9 and 11-12 under 35 USC 112, first paragraph as note being enabled by the specification as filed. Specifically, the Examiner states,

the specification, while being enabled for a method of reducing or inhibiting invasiveness and metastasis of tumor cells expressing Gb3, does not reasonably provide enablement for the prevention of invasiveness and metastasis of tumor cells or for a method of reducing or inhibiting or preventing invasiveness and metastasis of tumor cells not expressing Gb3.

Applicants respectfully disagree with the Examiner’s position. Much of the Examiner’s rejection is based upon an out dated view that cancer vaccines do not work. The Examiner relies on art from 1995 to support this point. However, it is well known that cancer vaccines work. For example, Gardasil® is a cervical cancer vaccine that has been FDA approved and is recommended by the National Cancer Institute for all girls 11-12 years old. Clearly the Examiner’s position on cancer vaccines is incorrect.

However, in the interest of expediting prosecution and in no way acquiescing to the validity of the Examiner’s rejection, Applicants have amended the claims to be directed to reducing or inhibiting the invasiveness or metastasis of tumor cells. Accordingly, Applicants believe that this rejection is rendered moot and respectfully request withdrawal of this rejection.

Rejection of Claims 1, 3-5, 7-10, and 12 Under 35 USC 103(a)

The Examiner has rejected claims 1, 3-5, 7-10 and 12 as being unpatentable over the combination of LaCasse et al. and Marcato et al. Applicants respectfully disagree.

The Examiner has indicated that LaCasse teaches that treatment of human B cell lymphoma using Shiga toxin 1. However this is not the case. A careful analysis of LaCrosse et al. reveals that they did not use Shiga toxin, but rather used Shiga-*like* toxin. Shiga-like toxin is also known as verotoxin and is a completely distinct protein from Shiga toxin.

Mercato et al. does not provide teachings that make up for the deficiencies of LaCasse et al.

Accordingly, the combination of LaCasse et al. and Mercato et al. do not render the instant invention obvious. Applicants respectfully request reconsideration and withdrawal of the aforementioned rejection.

Conclusion

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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